IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 3147 of 1999

Between:

Smt. Vasthina, W/o Dr. G. Krishna Murthy, 8-2-546/A/1 Road No.7, Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The Municipal Corporation of Hyderabad Rep.by its Commissioner, Tank Bund, Hyderabad
2 The Assistant City planner, Municipal Corporation of Hyderabad Circle No. V, Khairatabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, or writs, order or direction, declaring the action of the respondents in not granting permission to the petitioner, pursuant to the application made by her on 6.8.98 for construction of residential house in land admeasuing 777 sq.yds forming part of H.NO.8-2-387/B/1, in Sy.No. 403/30 of Road No.3, Banjara Hills, Hyderabad as illegal and arbitrary, by setting aside the letter dt 13.8.98 issued by the second respondent in L.R. No.387/B/1/2/8/98 by further direction to the respondents to forthwith grant permission to the petitioner for construction of residential house in the above property pursuant to the application made by her on 6.8.98.

Counsel for the Petitioner:MR.H.Venugopal

Counsel for the Respondent Nos.1 & 2: SMT.G.JYOTHI KIRAN, S.C. FOR MUNICIPAL CORPORATION.

The Court made the following :

O R D E R:

This writ petition is filed for declaring the action of respondents in not granting permission to the petitioner for the construction of a residential house in a land admeasuing 777 square yards, forming part of H.NO.8-2-387/B/1, in Sy.No. 403/30 of Road No.3, Banjara Hills, Hyderabad as illegal and arbitrary and for setting aside the letter dt 13.8.98 issued by the second respondent in Lr. No.387/B/1/2/8/98 and

for a further directing the respondents to forthwith grant permission to the petitioner for construction of a residential house in the above property in pursuance of the application made by her on 6.8.1998.

It is the case of the petitioner that she is the owner and possessor of the above said land. On an application submitted by the petitioner dated 06.08.1998 for the construction of a residential building, the respondent authorities without giving any opportunity to the petitioner rejected her application vide order dated 13.08.1998 on the following grounds:

1. *She has not enclosed the reference of the approved layout or sub division for verification;*
2. *She has not enclosed the Town Survey Record from the concerned M.R.O. or Revenue Department indicating the proposed site falls in private or Government land;*
3. *Until and unless the above documents are not enclosed, it is not possible to examine the matter.*

The learned counsel for the petitioner brought to my notice a judgment of a Division Bench of this Court reported in ***HYDERABAD POTTERIES PRIVATE LIMITED VS. COLLECTOR, HYDERABAD DISTRICT AND ANOTHER*** wherein this Court observed that there is no provision under the Andhra Pradesh Survey & Boundaries Act, 1923 (for short 'the Act') to make any detailed enquiries with regard to the right, title and interest of the persons in the land. It is neither the object nor the scheme of the said Act. There is no presumption that every entry made in the TSLR shall be presumed to be true until contrary is proved as in the case of entries made in the record of rights under the provisions of the Andhra Pradesh Record of Rights in Land Act, 1971.

Taking into consideration the judgment referred to (Supra-1), the writ petition is disposed of directing the respondents to consider the application of the petitioner if it is filed as per bye law 4(2) of the bye laws of the Municipal Corporation and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of

this order, after affording an opportunity of hearing to the petitioner. No order as to costs.

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E.DHARMA RAO J.,

DT.20.07.2005

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To

1 The Municipal Corporation of Hyderabad Rep.by its Commissioner,
Tank Bund, Hyderabad
2 The Assistant City planner, Municipal Corporation of Hyderabad Circle No.
V, Khairatabad, Hyderabad.

3 1 C.C. to the S.C. for Municipal Corporation of Hyderabad.

4 2 CD copies.

5 1 C.C. to T.Sudershan Reddy.